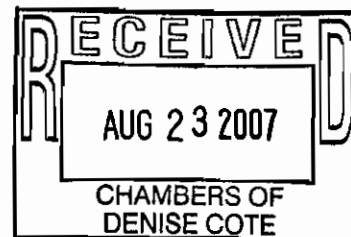


MEMO ENDORSED



MICHAEL A. CARDOZO
Corporation Counsel

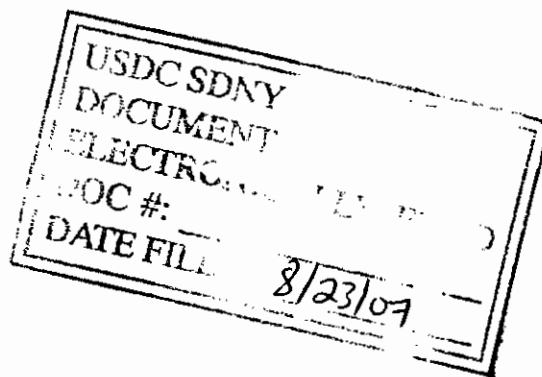
THE CITY OF NEW YORK
LAW DEPARTMENT
100 CHURCH STREET
NEW YORK, NY 10007

CHRISTOPHER A. SEACORD
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August 22, 2007

Hon. Denise L. Cote
United States District Court
Southern District of New York
500 Pearl Street
New York, NY 10007

Re: Gambella v. Dep't of Educ., et al.
07 Civ. 05982 (DLC)



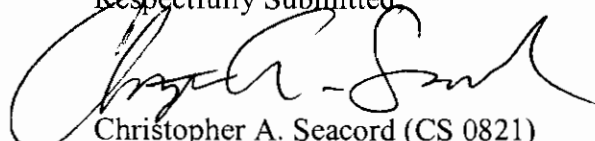
Dear Judge Cote:

I am an Assistant Corporation Counsel in the office of Michael A. Cardozo, Assistant Corporation Counsel for the New York City Law Department, assigned to represent the defendants in the above-referenced action. Earlier this month I was notified that this case had been reassigned to Your Honor from Judge Holwell. I am writing to ensure that Your Honor is aware of the defendants' request for a pre-motion conference, and also to inquire as to how best to proceed with respect to that request.

On July 13, 2007, the undersigned submitted a letter to Judge Holwell, pursuant to his individual practices, requesting a pre-motion conference for the purpose of obtaining leave to move for the dismissal of the complaint in this matter. (A copy of this letter to Judge Holwell is annexed hereto). Subsequently, after learning that this case had been reassigned, the undersigned consulted Your Honor's individual practices and discovered that Your Honor does not require pre-motion conferences for motions to dismiss pursuant to FRCP 12(b) and other non-discovery motions. Accordingly, I am writing to inquire as to whether Your Honor intends to address the request for a pre-motion conference, or whether the defendants should simply serve and file their motion to dismiss the complaint. If no such conference is required, the undersigned suggests the following briefing schedule for the defendants' motion to dismiss: (1) the defendants shall serve their motion within 20 days of being notified that no pre-motion conference is required; (2) the plaintiff shall serve his opposition papers within 10 days of service of defendants' motion to dismiss; and (3) the defendants shall serve their reply papers within 5 days of service of plaintiff's opposition papers.

Finally, I am in receipt of the letter from plaintiff's counsel, dated August 21, 2007, informing the Court of plaintiff's request that this case be remanded to state court pursuant to 28 U.S.C. § 1447(c). As defendants stated in their initial removal notice, plaintiff's complaint specifically alleges, among other claims, that defendants deprived plaintiff of his constitutional rights, as secured by the Fourteenth Amendment to the United States Constitution, in violation of 42 U.S.C. § 1983, and, therefore, removal to this Court was proper. Accordingly, the defendants oppose plaintiff's request to remand this case back to state court. However, if plaintiff is willing to dismiss his federal claims with prejudice, then the defendants would be willing to reconsider their opposition to plaintiff's request. Should the Court desire a more formal response to plaintiff's application, defendants will submit a memorandum of law upon being advised by the Court that a formal response to plaintiff's application is required.

Respectfully Submitted



Christopher A. Seacord (CS 0821)
Assistant Corporation Counsel

cc: Steven A. Friedman, Esq. (by fax and first-class mail)
Office of James R. Sandner
General Counsel, NYS United Teachers
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New York, New York 10004
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There shall be no pre-motion conference. The motion for remand is denied. The complaint seeks relief for violation of the U.S. Constitution.

The plaintiff may remove any ambiguity by providing a stipulation to the defendants for their consideration or filing an amended complaint by September 7, 2007.

*James R. Sandner
August 23, 2007*